

Notice of Allowability

Application No.

09/960,680

Examiner

William K Cheung

Applicant(s)

LAMOLA ET AL.

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment.
2. ☒ The allowed claim(s) is/are 1-10.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 0223
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Art Unit: 1713

DETAILED ACTION

1. In view of Applicants' argument, the rejection of claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, is withdrawn.

2. In view of Applicants' argument, the rejection of claims 1-9 under 35 U.S.C. 102(b) as being anticipated by Kosal (US 5,504,149) is withdrawn. Further, the rejection of claim 10 under 35 U.S.C. 103(a) as being unpatentable over Kosal (US 5,504,149) is withdrawn.

EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Art Unit: 1713

Authorization for this examiner's amendment was given in a telephone interview with attorney S. Matthew Cairns (Registration No. 42,378) on May 5, 2004.

4. Cancel non-elected claims 11-22.

Allowances

5. Claims 1-10 are allowed.

6. The following is an examiner's statement of reasons for allowance:

As of the date of this office action, the examiner has not located or identified any reference that can be used singularly or in combination with another reference including the closest prior art of Kosal (US 5,504,149) to render the present invention anticipated or obvious to one of ordinary skill in the art.

*The invention of claims 1-10 relates to a **process for preparing polymer particles** comprising the step of: **polymerizing one or more monomers in an aqueous emulsion** comprising **one or more surfactants**, the one or more surfactants consisting of **nonionic surfactants**, wherein at least one of the nonionic surfactants is*

Art Unit: 1713

an amine-N-oxide surfactant, and wherein the polymer particles have a mean particle size of less than or equal to 100 nm.

The closest prior art Kosal (col. 4, line 50 to col. 5, line 24; col. 6, line 46 to col. 7, line 11) discloses a process for preparing polymer particles comprising the step of polymerizing one or more monomers in an aqueous emulsion comprising one or more surfactants which include an amine-N-oxide surfactant. Further, Kosal in working example 6 (col. 8, line 62 to col. 9, line 7) discloses that polymerization process can produced particle sizes as low as 52.9 nm. However, Kosal (col. 3, line 64-67) specifically teaches a mixture where a nonionic surfactant may be omitted while the process can be conducted with only cationic surfactant (col. 5, line 30-33). Therefore, Kosal clearly indicates a process which must involves using a cationic surfactant if any surfactant to be used. In view of the reasons set forth above, it would not be apparent to one of ordinary skill in art to use the teachings of Kosal to obtain the invention of claims 1-10 which clearly involves only non-ionic surfactants. The invention of claims 1-10 is allowed.

In light of the above discussion, it is evident as to why the present claims are patentable over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, and to avoid processing delays, should

Art Unit: 1713

preferably accompany the issue fee. Such submissions should be clearly labeled

"Comments on Statement of Reasons for Allowance."

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William K Cheung whose telephone number is (571) 272-1097. The examiner can normally be reached on Monday-Friday 9:00AM to 2:00PM; 4:00PM to 8:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David WU can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

Application/Control Number: 09/960,680

Page 6.

Art Unit: 1713

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'William K. Cheung', with a stylized, flowing script.

William K. Cheung

Patent Examiner

May 5, 2004